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9 **BEFORE THE**  
10 **BOARD OF REGISTERED NURSING**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Petition to Revoke Probation  
Against:

13 RHONDA MARY ZAJAC  
14 3801-5S Marguette Place  
15 San Diego, CA 92106

16 Respondent.

Case No. 2004-323

**PETITION TO REVOKE  
PROBATION**

17  
18 Complainant alleges:

19 PARTIES

20 1. Ruth Ann Terry, M.P.H, R.N. (Complainant) brings this Petition to  
21 Revoke Probation solely in her official capacity as the Executive Officer of the Board of  
22 Registered Nursing.

23 2. On or about March 30, 1999, the Board of Registered Nursing ("Board")  
24 issued Registered Nurse Number 553790 to Rhonda Mary Zajac ("Respondent"). The license  
25 will expire on November 30, 2008.

26 3. In a disciplinary action entitled "In the Matter of Accusation Against  
27 RHONDA MARY ZAJAC," Case No. 2004-323, the Board, issued a decision, effective June 10,  
28 2005, in which Respondent's Registered Nurse was revoked. However, the revocation was

1 stayed and Respondent's was placed on probation for a period of three (3) years with certain  
2 terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated by  
3 reference.

#### 4 JURISDICTION

5 4. This Petition to Revoke Probation is brought before the Board under the  
6 authority of the following laws.

7 5. Section 2750 of the Business and Professions Code ("Code") provides, in  
8 pertinent part, that the Board may discipline any licensee, including a licensee holding a  
9 temporary or an inactive license, for any reason provided in Article 3 (commencing with section  
10 2750) of the Nursing Practice Act.

11 6. Section 2764 of the Code provides, in pertinent part, that the expiration of  
12 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding  
13 against the licensee or to render a decision imposing discipline on the license.

14 7. Section 2811(b) of the Code provides, in pertinent part, that the Board may  
15 renew an expired license at any time within eight years after the expiration.

#### 16 FIRST CAUSE TO REVOKE PROBATION

17 (Comply with the Board's Probation Program)

18 8. At all times after the effective date of Respondent's probation, Condition 2  
19 stated:

20 Comply with the Board's Probation Program. Respondent shall fully  
21 comply with the conditions of the Probation Program established by the Board  
22 and cooperate with representatives of the Board in its monitoring and  
23 investigation of the Respondent's compliance with the Board's Probation  
Program. Respondent shall inform the Board in writing within no more than 15  
days of any address change and shall at all times maintain an active, current  
license status with the Board, including during any period of suspension.

24 Upon successful completion of probation, Respondent's license shall be  
25 fully restored.

26 9. Respondent's probation is subject to revocation because she failed to  
27 comply with Probation Condition 2, referenced above. The facts and circumstances regarding  
28 this violation are as follows: Respondent failed to comply with Probation Conditions 5, 6, 10,

11, 14, and 16 through 19 as described in further detail below.

SECOND CAUSE TO REVOKE PROBATION

(Failure to Submit Quarterly Reports)

10. At all times after the effective date of Respondent's probation, Condition 5 stated:

Submit Written Reports. Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to Respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this Decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

11. Respondent's probation is subject to revocation because she failed to comply with Probation Condition 5, referenced above. The facts and circumstances regarding this violation are as follows: Respondent failed to submit Quarterly Reports for January through March 2007, April through June 2007, July through September 2007, and October through December 2007.

THIRD CAUSE TO REVOKE PROBATION

(Failure to Function As Registered Nurse As Required)

12. At all times after the effective date of Respondent's probation, Condition 6 stated:

Function as a Registered Nurse. Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If Respondent has not complied with this condition during the

1 probationary term, and Respondent has presented sufficient documentation of her  
2 good faith efforts to comply with this condition, and if no other conditions have  
3 been violated, the Board, in its discretion, may grant an extension of Respondent's  
4 probation period up to one year without further hearing in order to comply with  
5 this condition. During the one year extension, all original conditions of probation  
6 shall apply.

7 13. Respondent's probation is subject to revocation because she failed to  
8 comply with Probation Condition 6, referenced above. The facts and circumstances regarding  
9 this violation are as follows: Respondent failed to work in her licensed capacity for a minimum  
10 of 24 hours per week for six continuous months.

#### 11 FOURTH CAUSE TO REVOKE PROBATION

12 (Failure to Complete Required Courses)

13 14. At all times after the effective date of Respondent's probation, Condition  
14 10 stated:

15 10. Complete a Nursing Course(s). Respondent, at her own  
16 expense, shall enroll and successfully complete a course(s) relevant to the practice  
17 of registered nursing no later than six months prior to the end of her probationary  
18 term.

19 Respondent shall obtain prior approval from the Board before  
20 enrolling in the course(s). Respondent shall submit to the Board the original  
21 transcripts or certificates of completion for the above required course(s). The  
22 Board shall return the original documents to Respondent after photocopying them  
23 for its records.

24 15. Respondent's probation is subject to revocation because she failed to  
25 comply with Probation Condition 10, referenced above. The facts and circumstances regarding  
26 this violation are as follows: Respondent failed to attend a Registered Nurse Refresher course,  
27 four to six hours of Professional Ethics and Legal Aspects of Nursing, a six-hour stress  
28 management course, and a Relapse Prevention Plan.

#### 29 FIFTH CAUSE TO REVOKE PROBATION

30 (Failure to Pay Cost Recovery)

31 16. At all times after the effective date of Respondent's probation, Condition  
32 11 stated:

33 11. Cost Recovery. Respondent shall pay to the Board costs  
34 associated with its investigation and enforcement pursuant to Business and  
35 Professions Code section 125.3 in the amount of \$4,000. Respondent shall be  
36 permitted to pay these costs in a payment plan approved by the Board, with

1 payments to be completed no later than three months prior to the end of the  
2 probation term.

3 If Respondent has not complied with this condition during the  
4 probationary term, and Respondent has presented sufficient documentation of her  
5 good faith efforts to comply with this condition, and if no other conditions have  
6 been violated, the Board, in its discretion, may grant an extension of Respondent's  
7 probation period up to one year without further hearing in order to comply with  
8 this condition. During the one year extension, all original conditions of probation  
9 will apply.

10 17. Respondent's probation is subject to revocation because she failed to  
11 comply with Probation Condition 11, referenced above. The facts and circumstances regarding  
12 this violation are as follows: Respondent has failed to pay \$4,000 for cost recovery as required  
13 by Probation Condition 11.

#### 14 SIXTH CAUSE TO REVOKE PROBATION

15 (Failure to Submit to Physical Examination)

16 18. At all times after the effective date of Respondent's probation, Condition  
17 14 stated:

18 14. Physical Examination. Within 45 days of the effective date of this  
19 Decision, Respondent, at her expense, shall have a licensed physician, nurse  
20 practitioner, or physician assistant, who is approved by the Board before the  
21 assessment is performed, submit an assessment of the Respondent's physical  
22 condition and capability to perform the duties of a registered nurse. Such an  
23 assessment shall be submitted in a format acceptable to the Board. If medically  
24 determined, a recommended treatment program will be instituted and followed by  
25 the Respondent with the physician, nurse practitioner, or physician assistant  
26 providing written reports to the Board on forms provided by the Board.

27 If Respondent is determined to be unable to practice safely as a  
28 registered nurse, the licensed physician, nurse practitioner, or physician assistant  
making this determination shall immediately notify the Board and Respondent by  
telephone, and the Board shall request that the Attorney General's office prepare  
an accusation or petition to revoke probation. Respondent shall immediately  
cease practice and shall not resume practice until notified by the Board. During  
this period of suspension, Respondent shall not engage in any practice for which a  
license issued by the Board is required until the Board has notified Respondent  
that a medical determination permits Respondent to resume practice. This period  
of suspension will not apply to the reduction of this probationary time period.

If Respondent fails to have the above assessment submitted to the  
Board within the 45-day requirement, Respondent shall immediately cease  
practice and shall not resume practice until notified by the Board. This period of  
suspension will not apply to the reduction of this probationary time period. The  
Board may waive or postpone this suspension only if significant, documented  
evidence of mitigation is provided. Such evidence must establish good faith  
efforts by Respondent to obtain the assessment, and a specific date for compliance

1 must be provided. Only one such waiver or extension may be permitted.

2 19. Respondent's probation is subject to revocation because she failed to  
3 comply with Probation Condition 14, referenced above. The facts and circumstances regarding  
4 this violation are as follows: Respondent failed to submit evidence she had submitted to the  
5 required physical examination as required by Probation Condition 14.

6 SEVENTH CAUSE TO REVOKE PROBATION

7 (Failure to Abstain from Psychotropic Drugs or Alcohol)

8 20. At all times after the effective date of Respondent's probation, Condition  
9 16 stated:

10 16. Abstain from Use of Psychotropic (Mood-Altering) Drugs.  
11 Respondent shall completely abstain from the possession, injection or  
12 consumption by any route of all psychotropic (mood altering) drugs, including  
13 alcohol, except when the same are ordered by a health care professional legally  
14 authorized to do so as part of documented medical treatment. Respondent shall  
15 have sent to the Board, in writing and within fourteen (14) days, by the  
16 prescribing health professional, a report identifying the medication, dosage, the  
17 date the medication was prescribed, the Respondent's prognosis, the date the  
18 medication will no longer be required, and the effect on the recovery plan, if  
19 appropriate.

20 Respondent shall identify for the Board a single physician, nurse  
21 practitioner or physician assistant who shall be aware of Respondent's history of  
22 substance abuse and will coordinate and monitor any prescriptions for Respondent  
23 for dangerous drugs, controlled substances or mood-altering drugs. The  
24 coordinating physician, nurse practitioner, or physician assistant shall report to the  
25 Board on a quarterly basis Respondent's compliance with this condition. If any  
26 substances considered addictive have been prescribed, the report shall identify a  
27 program for the time limited use of any such substances.

28 The Board may require the single coordinating physician, nurse  
practitioner, or physician assistant to be a specialist in addictive medicine, or to  
consult with a specialist in addictive medicine.

21 21. Respondent's probation is subject to revocation because she failed to  
22 comply with Probation Condition 16, referenced above. The facts and circumstances regarding  
23 this violation are as follows: Respondent failed to abstain from psychotropic drugs and alcohol.

24 EIGHTH CAUSE TO REVOKE PROBATION

25 (Failure to Comply with Biological Fluid Testing)

26 22. At all times after the effective date of Respondent's probation, Condition  
27 17 stated:

1                   17.     Submit to Tests and Samples. Respondent, at her expense,  
2     shall participate in a random, biological fluid testing or a drug screening program  
3     which the Board approves. The length of time and frequency will be subject to  
4     approval by the Board. Respondent is responsible for keeping the Board informed  
5     of Respondent's current telephone number at all times. Respondent shall also  
6     ensure that messages may be left at the telephone number when she is not  
7     available and ensure that reports are submitted directly by the testing agency to the  
8     Board, as directed. Any confirmed positive finding shall be reported immediately  
9     to the Board by the program and Respondent shall be considered in violation of  
10    probation.

11                   In addition, Respondent, at any time during the period of probation,  
12    shall fully cooperate with the Board or any of its representatives, and shall, when  
13    requested, submit to such tests and samples as the Board or its representatives  
14    may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or  
15    other controlled substances.

16                   If Respondent has a positive drug screen for any substance not  
17    legally authorized and not reported to the coordinating physician, nurse  
18    practitioner, or physician assistant, and the Board files a petition to revoke  
19    probation or an accusation, the Board may suspend Respondent from practice  
20    pending the final decision on the petition to revoke probation or the accusation.  
21    This period of suspension will not apply to the reduction of this probationary time  
22    period.

23                   If Respondent fails to participate in a random, biological fluid  
24    testing or drug screening program within the specified time frame, Respondent  
25    shall immediately cease practice and shall not resume practice until notified by the  
26    Board. After taking into account documented evidence of mitigation, if the Board  
27    files a petition to revoke probation or an accusation, the Board may suspend  
28    Respondent from practice pending the final decision on the petition to revoke  
29    probation or the accusation. This period of suspension will not apply to the  
30    reduction of this probationary time period.

31                   23.     Respondent's probation is subject to revocation because she failed to  
32    comply with Probation Condition 17, referenced above. The facts and circumstances regarding  
33    this violation are as follows: On July 5, 2005, and on August 9, 2005, Respondent tested positive  
34    for alcohol. Furthermore, from August 27 through March 18, 2008, Respondent failed to call the  
35    laboratory to arrange testing such that Respondent has missed 14 required tests as required by  
36    Probation Condition 17.

#### 37                   NINTH CAUSE TO REVOKE PROBATION

38                   (Failure to Submit to Mental Health Examination)

39                   24.     At all times after the effective date of Respondent's probation, Condition  
40    18 stated:

41                   18.     Mental Health Examination. Respondent shall, within 45

1 days of the effective date of this Decision, have a mental health examination  
2 including psychological testing as appropriate to determine her capability to  
3 perform the duties of a registered nurse. The examination will be performed by a  
4 psychiatrist, psychologist or other licensed mental health practitioner approved by  
5 the Board. The examining mental health practitioner will submit a written report  
6 of that assessment and recommendations to the Board. All costs are the  
7 responsibility of Respondent. Recommendations for treatment, therapy or  
8 counseling made as a result of the mental health examination will be instituted  
9 and followed by Respondent.

10 If Respondent is determined to be unable to practice safely as a  
11 registered nurse, the licensed mental health care practitioner making this  
12 determination shall immediately notify the Board and Respondent by telephone,  
13 and the Board shall request that the Attorney General's office prepare an  
14 accusation or petition to revoke probation. Respondent shall immediately cease  
15 practice and may not resume practice until notified by the Board. During this  
16 period of suspension, Respondent shall not engage in any practice for which a  
17 license issued by the Board is required, until the Board has notified Respondent  
18 that a mental health determination permits Respondent to resume practice. This  
19 period of suspension will not apply to the reduction of this probationary time  
20 period.

21 If Respondent fails to have the above assessment submitted to the  
22 Board within the 45-day requirement, Respondent shall immediately cease  
23 practice and shall not resume practice until notified by the Board. This period of  
24 suspension will not apply to the reduction of this probationary time period. The  
25 Board may waive or postpone this suspension only if significant, documented  
26 evidence of mitigation is provided. Such evidence must establish good faith  
27 efforts by Respondent to obtain the assessment, and a specific date for compliance  
28 must be provided. Only one such waiver or extension may be permitted.

25. Respondent's probation is subject to revocation because she failed to  
comply with Probation Condition 18, referenced above. The facts and circumstances regarding  
this violation are as follows: The facts and circumstances regarding this violation are as follows:  
Respondent failed to submit evidence she had submitted to the mental health examination as  
required by Probation Condition 18.

#### TENTH CAUSE TO REVOKE PROBATION

(Failure to Submit Verification of Ongoing Therapy or Counseling Program)

26. At all times after the effective date of Respondent's probation, Condition  
19 stated:

19. Therapy or Counseling Program. Respondent, at her expense, shall  
participate in an on-going counseling program until such time as the Board  
releases her from this requirement and only upon the recommendation of the  
counselor. Written progress reports from the counselor will be required at various  
intervals.



1                   27.     Respondent's probation is subject to revocation because she failed to  
2 comply with Probation Condition 19, referenced above. The facts and circumstances regarding  
3 this violation are as follows: Respondent failed to submit verification of participation in an on-  
4 going therapy or counseling program as required by Probation Condition 19.

5                                   DISCIPLINE CONSIDERATIONS

6                   28.     To determine the degree of discipline, if any, to be imposed on  
7 Respondent, Complainant alleges that on or about July 9, 2003, in a prior criminal proceeding  
8 entitled *People of the State of California v. Rhonda Zajac* in San Diego Superior Court Superior  
9 Court, Case No. M889809, Respondent was convicted for violating Vehicle Code section  
10 23152(a) (driving under the influence of alcohol or drugs), a misdemeanor and was ordered to  
11 Probation, sentenced to serve 180 days in custody, and ordered to pay \$1,423 in fines. The  
12 record of the criminal proceeding is incorporated as if fully set forth.

13                                   PRAYER

14                   WHEREFORE, Complainant requests that a hearing be held on the matters herein  
15 alleged, and that following the hearing, the Administrative Law Judge issue a decision:

- 16                   1.     Revoking the probation that was granted by the Board of Registered  
17 Nursing in Case No. 2004-323 and imposing the disciplinary order that was stayed thereby  
18 revoking Registered Nurse No. 553790 issued to Rhonda Mary Zajac;  
19                   2.     Revoking or suspending Registered Nurse No. 553790, issued to Rhonda  
20 Mary Zajac;  
21                   3.     Taking such other and further action as deemed necessary and proper.

22 DATED: 7/14/08

23                                   Ruth Ann Terry  
24 RUTH ANN TERRY, M.P.H., R.N.  
25 Executive Officer  
26 Board of Registered Nursing  
27 State of California  
28 Complainant

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8 Attorneys for Complainant

9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Petition to Revoke Probation  
Against:

13 RHONDA MARY ZAJAC  
14 3801-5S Marguette Place  
San Diego, CA 92106

15  
16 Respondent.

Case No. 2004-323

**REQUEST FOR DISCOVERY**

[Gov. Code § 11507.6]

17 TO RESPONDENT:

18 Under section 11507.6 of the Government Code of the State of California, parties  
19 to an administrative hearing, including the Complainant, are entitled to certain information  
20 concerning the opposing party's case. A copy of the provisions of section 11507.6 of the  
21 Government Code concerning such rights is included among the papers served.

22 PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU  
23 ARE HEREBY REQUESTED TO:

- 24 1. Provide the names and addresses of witnesses to the extent known to the  
25 Respondent, including, but not limited to, those intended to be called to testify at the hearing, and  
26 2. Provide an opportunity for the Complainant to inspect and make a copy of any of  
27 the following in the possession or custody or under control of the Respondent:  
28 a. A statement of a person, other than the Respondent, named in the initial

1 administrative pleading, or in any additional pleading, when it is claimed that the act or  
2 omission of the Respondent as to this person is the basis for the administrative  
3 proceeding;

4 b. A statement pertaining to the subject matter of the proceeding made by any  
5 party to another party or persons;

6 c. Statements of witnesses then proposed to be called by the Respondent and  
7 of other persons having personal knowledge of the acts, omissions or events which are the  
8 basis for the proceeding, not included in (a) or (b) above;

9 d. All writings, including but not limited to reports of mental, physical and  
10 blood examinations and things which the Respondent now proposes to offer in evidence;

11 e. Any other writing or thing which is relevant and which would be  
12 admissible in evidence, including but not limited to, any patient or hospital records  
13 pertaining to the persons named in the pleading;

14 f. Investigative reports made by or on behalf of the Respondent pertaining to  
15 the subject matter of the proceeding, to the extent that these reports (1) contain the names  
16 and addresses of witnesses or of persons having personal knowledge of the acts,  
17 omissions or events which are the basis for the proceeding, or (2) reflect matters  
18 perceived by the investigator in the course of his or her investigation, or (3) contain or  
19 include by attachment any statement or writing described in (a) to (e), inclusive, or  
20 summary thereof.

21 For the purpose of this Request for Discovery, "statements" include written  
22 statements by the person, signed, or otherwise authenticated by him or her, stenographic,  
23 mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person,  
24 and written reports or summaries of these oral statements.

25 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for  
26 Discovery should be deemed to authorize the inspection or copying of any writing or thing which  
27 is privileged from disclosure by law or otherwise made confidential or protected as attorney's  
28 work product.


1 Your response to this Request for Discovery should be directed to the undersigned  
2 attorney for the Complainant at the address on the first page of this Request for Discovery **within**  
3 **30 days after service** of the Petition to Revoke Probation.

4 Failure without substantial justification to comply with this Request for Discovery  
5 may subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30  
6 of the Government Code.

7 DATED: April 2, 2008

8 EDMUND G. BROWN JR., Attorney General  
9 of the State of California

10 JAMES M. LEDAKIS  
11 Supervising Deputy Attorney General

12   
13 CARL W. SONNE  
14 Deputy Attorney General

15 Attorneys for Complainant

16 CWS:kc  
17 80223658.wpd  
18 SD2008800741  
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**Exhibit A**

**Decision and Order**

**Board of Registered Nursing Case No. 2004-323**

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

RHONDA MARY ZAJAC  
3801-2K Marquette Place  
San Diego, CA 92106

Registered Nurse License No. 553790

Respondent

Case No. 2004-323

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as it's Decision in the above entitled matter.

This Decision shall become effective on June 10, 2005.

IT IS SO ORDERED May 11, 2005.

*Sandra D. Erickson*

\_\_\_\_\_  
President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California